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**RECEIVED
CENTRAL FAX CENTER**

DEC 12 2005

Serial No.: 10/717,072)
 Applicant: Wozniacki)
 Filed: November 19, 2003)
 For: **SPACER FOR MATERIAL
HANDLING INDUSTRY AND
METHOD AND ASSEMBLY
FOR FORMING SAME**)
 Examiner: Jerrold D. Johnson)
 Art Unit: 3728)
 Attorney Docket No.: 2066/40609/1)

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| CERTIFICATION OF FACSIMILE TRANSMISSION | |
| I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office to fax number (571) 273-1300 on: | |
| December 12, 2005 | Date |
| <i>Tiffany E. Sexton</i> | Signature |
| Tiffany E. Sexton | |

DECLARATION OF ROGER WOZNIACKI UNDER 37 CFR § 1.132

Mail Stop Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

I, Roger Wozniacki, declare and say:

1. I am a citizen of the United States of America and I reside at 1259 Birch River Drive, Dahlonega, Georgia 30533.
2. I have approximately forty-five (45) years of experience working in the packaging industry.
3. My experience working in the packaging industry has included: designer, design manager, regional design manager, packaging systems sales manager, product development manager-Anvilbox, regional product manager, senior account executive-bulk box sales and vice president of packaging technology, which is my current position at Fidelity Container Corporation, the assignee of the above-identified patent application.

4. I have been the Vice President of Packaging Technology for Fidelity Container Corporation for approximately the last three and one-half (3.5) years.
5. My responsibilities as the Vice President of Packaging Technology for Fidelity Container Corporation include, but are not limited to:
 - A. Guiding Fidelity Container Corporation's accounts and market development efforts by providing design, mechanical, technical and marketing expertise;
 - B. Introducing Value Analysis methods and techniques to sales and design to provide analytical tool in package design development;
 - C. High involvement with all of Fidelity Container Corporation's major accounts to provide advanced packaging solutions through package design, mechanical systems and paper science;
 - D. Remain highly networked in packaging systems and automation technology on a worldwide scale;
 - E. Introduce new ideas and concept to allow Fidelity Container to be a leader in the packaging world; and
 - F. Lead and manage Fidelity Package Consulting Service Group into a successful business and to provide it with creative structural, mechanical direction.
6. I am a named inventor on eight (8) United States patents.
7. I am the sole inventor of the above-referenced patent application and I have studied the Examiner's reasons for rejection in the Office Action dated August 11, 2005, as well as each of the references specifically cited therein used to make the rejections.
8. Corrugated paper, which is used in the Perry reference (United States Patent No. 2,583,443), is not the same as paperboard, which is used in my invention.
9. Corrugated paper generally consists of two outer sheets of flat paper glued to a fluted or "corrugated" inner sheet, thus making the corrugated paper inherently rigid in nature.
10. Paperboard is basically a single sheet of paper having a predetermined thickness with varying degrees of rigidity.

11. A computer program was developed with the collaboration of a major paper company, a paper scientist, and the Institute of Paper Science and Technology to predict corrugated structural performance results for laminated corrugated structures, including compressive strength and flexural strength. No expense was spared to create this program. The program allows for a design engineer to accurately create a performance result literally in minutes what has previously taken months to manually create. The computer program modeling assumes that all plies of the corrugated paper are fully (100%) laminated and bonded together. The results of the computer program modeling are accurately predicted within 5%.
12. The computer program modeling has allowed me to compare the difference between forming the spacer of the invention in the wave-like pattern with paperboard (actual results) as opposed to forming the spacer of the invention in the zig-zag pattern with corrugated paper, as generally described in the Perry reference (computer program modeling results), where each spacer has generally identical lengths, widths and heights.
13. According to our actual test results, a laminated paperboard spacer having a uniform thickness of approximately one-quarter (0.25) of an inch should have a compression strength of approximately 27,000 pounds, with each spacer weighing approximately 0.962 pounds.
14. According to the computer program, in order to form a laminated corrugated paper spacer which has a compression strength of approximately 27,000 pounds, the laminated corrugated paper spacer would have to have a uniform thickness of approximately one and four-tenths (1.80) inches, and each such spacer would weight approximately 1.818 pounds.
15. Using spacers configured to have a compression strength of approximately 27,000 pounds, which are formed of paperboard as opposed to corrugated paper, would result in an enormous cost savings, in the millions of dollars, both in the manufacture of the paperboard spacers compared to the corrugated paper spacers, and in the freight costs associated with using the paperboard spacers compared to the corrugated paper spacers.
16. A computer program modeling was performed of a corrugated paper spacer, of the type disclosed in the Perry reference, where the spacer has a thickness of approximately one (1) inch. This spacer, while having a weight which is generally equivalent to that of a paperboard spacer having a thickness of one-quarter (0.25) of an inch (see ¶13), would only have a compression strength of approximately 11,000 pounds.

17. In my opinion, the formation of the corrugated paper spacers disclosed in the Perry reference would be very impractical as the folding and laminating of the Perry spacer into the zigzag pattern in a number of layers to provide the spacer with a thickness of between one (1) and two (2) inches would require an enormous machine to apply the adhesive, and to fold and hold the zigzag pattern until "set". Applying enough pressure to create the "bond" would require about 20 seconds. Applying too much pressure would collapse the flute arches of the corrugated paper spacers and would severely weaken the structure under compression.
18. Management of makers of wallboard, such as National Gypsum Company, and retailers who sell the wallboard, such as The Home Depot, have been looking for a replacement to using pieces of wallboard as risers or spacers to support stacks of wallboard for at least the past fifty years. Management of makers of wallboard want to replace using pieces of wallboard as risers or spacers for at least the following two reasons: (1) using pieces of wallboard requires wasting good pieces of wallboard that could otherwise be sold; and (2) the manufacture of these risers or spacers causes them to spend time and money in preparing these risers or spacers, e.g., by stacking, laminating and cutting a plurality of sheets of wallboard. Retailers who sell the wallboard also want to replace using pieces of wallboard as risers or spacers for at least two reasons, namely: (1) the wallboard risers or spacers create a lot of dust which the retailer needs to clean-up; and (2) the wallboard risers or spacers are then a waste product and the retailer needs to pay to have the wallboard risers or spacers disposed as they are a waste product.
19. In view of ¶18, National Gypsum Company, as well as others, began experimenting with making spacers out of other materials, but with the requirement that the spacers be preferably inexpensive to make, be disposable and/or returnable and/or recyclable, and be configured to have the required compressive strength.
20. National Gypsum Company came up with its own design for a spacer to try and solve its problems, as evidenced in the Menchetti reference (United States Patent No. 5,722,626), but it is my opinion that National Gypsum Company does not manufacture or utilize its own invention because I have never seen evidence that such a product is in use in the industry.
21. Prior to my study of the Office Action dated August 11, 2005 and the references cited therein, I was unaware that National Gypsum Company owned a patent (the Menchetti reference) for such a product.

22. It is my opinion, the reason why National Gypsum Company does not apparently manufacture or utilize its own invention is because their product would be very difficult and expensive to manufacture. If their product were to be made it would probably be very expensive and, as such, they would want the products returned to them for reuse. Setting up such a system to have the products returned to them, however, would require a very large investment.
23. In 1993, prior to National Gypsum Company filing its patent application on December 4, 1995, I began experimenting with different structures and materials to provide a product to National Gypsum Company which would meet each of its requirements and solve as many of the aforementioned problems as possible.
24. On October 31, 1994, I sold 15,000 such products to National Gypsum Company at a cost of \$1.25 per product. The products were formed of strips of corrugated paper laminated together into a block-like form. The block-like products were positioned under stacks of wallboard in a similar manner as were the spacers illustrated in Figures 1A and 1B, and in a similar manner as to the spacers of my present invention as illustrated in Figures 20 and 21.
25. Sometime thereafter, but prior to June 28, 1995, I met with Mr. Daniel A. Winkowski, who is one of the named inventors of the Menchetti reference, at National Gypsum Company, to discuss the products sold to National Gypsum Company and their performance, specifically with regard to their performance when they become wet.
26. After my meeting with Mr. Winkowski, we looked into reconfiguring the block-like spacers formed of corrugated paper such that they would meet National Gypsum's performance criteria in both wet and dry environments. Our solution was to saturate the block-like spacers with wax as these reconfigured spacers achieved excellent results in our testing. On June 28, 1995, I sent Mr. Winkowski a letter advising him of our improved block-like spacers, but never received any further contact with him, I presume because the addition of the wax to the cost of the spacers would, in my opinion, add about 30% to the cost of each spacer.
27. Based on my knowledge in this area, it is my belief that to this day, nobody, including National Gypsum Company, has been able to manufacture and/or sell a spacer which overcomes all of the problems outlined in the "Background of the Invention" section of the above-referenced patent application. I believe that the spacer of the present invention overcomes these problems.

28. The paperboard spacers described in the above-referenced patent application, have provided greatly improved results compared to prior art spacer designs, all of which have been generally too expensive to manufacture and/or utilize such that they are not feasible to be manufactured, used or sold. The paperboard spacers of the present invention, however, are not too expensive to manufacture and/or utilize such that it is very feasible to manufacture, use or sell same.
26. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Date: 12-9-2005


Roger Wozniacki